

AB 2420, Forest Fire Prevention Exemption Emergency Rule, 2004
Approved by OAL January 8, 2005

Amend 14 CCR §§ 1038(e) Exemption

Adopt 14 CCR § 1038(i) Exemption

Amend: 14 CCR § 1038(e)

(e) Operations pursuant to an exemption under subsection (c), (d) and (i) ~~(d)~~ may not commence for five working days from the date of the Director's receipt of the Notice of Exemption unless this delay is waived by the Director, after consultation with other state agencies. The Director shall determine whether the Notice of Exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter. If the Notice of Exemption is not complete and accurate, it shall be returned to the submitter and the timber operator may not proceed. If the Director does not act within five days of receipt of the Notice of Exemption, timber operations may commence.

Adopt 14 CCR § 1038(i) - Exemption

(i) The harvesting of trees in compliance with PRC § 4584(k), Forest Fire Prevention Exemption, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, when the following conditions are met:

1 (1) The logging area does not exceed 300 acres in size.

2 (2) The tree harvesting will decrease fuel continuity and
3 increase the quadratic mean diameter of the stand.

4 (3) The Notice of Exemption, Form RM-73(1038i)(1/08/05), is
5 prepared by an RPF and submitted to the Director.

6 (4) The RPF preparing the Notice of Exemption shall, upon
7 submission of the Notice of Exemption, provide a map of the area of
8 timber operations that complies with 14 CCR § 1034(x)(1),(3), (4),
9 (7), (8),(9), (10), (11) and (12).

10 (5) The RPF shall, upon submission of the Notice of Exemption,
11 include a description of the preharvest stand structure and a
12 statement of the postharvest stand stocking levels. The level of
13 residual stocking shall be consistent with maximum sustained
14 production of high quality timber products. The residual stand shall
15 consist primarily of healthy and vigorous dominant and codominant
16 trees from the preharvest stand. In no case shall stocking be reduced
17 below the standards required under 14 CCR § 913.3(a)(1)(A)1. through
18 4.[933.3(a)(1)(A)1. through 4., 953.3(a)(1)(A)1. through 4.] for each
19 appropriate Forest District.

20 (A) Where the preharvest dominant and codominant crown
21 canopy is occupied by trees less than 14 in. dbh, a minimum of 100
22 trees per acre over 4 in. dbh shall be retained for site I, II, and
23 III. For site IV and V - 75 trees per acre over 4 in. dbh shall be
24 retained.

25 (6) The RPF shall, upon submission of the Notice of Exemption,

1 provide the selection criteria for the trees to be removed or the
2 trees to be retained. The selection criteria shall specify how the
3 trees to be removed, or how the trees to be retained, will be
4 designated. All trees to be harvested or all trees to be retained
5 shall be marked by, or under the supervision of, an RPF prior to
6 felling operations.

7 (7) The RPF shall, upon submission of the Notice of
8 Exemption, provide a Confidential Archaeological Letter which contains
9 all the information required for plans and Emergency Notices in 14 CCR
10 § 929.1(c)(2), (7), (8), (9), (10) and (11),
11 [949.1(c)(2), (7), (8), (9), (10) and (11), 969.1(c)(2), (7), (8), (9), (10)
12 and (11)] including site records as required pursuant to 14 CCR §§
13 929.1 (g) [949.1(g), 969.1(g)] and 929.5 [949.5 and 969.5]. The
14 Director shall submit a complete copy of the Confidential
15 Archaeological Letter, and two copies of any required archaeological
16 or historical site records, to the appropriate Information Center of
17 the California Historical Resource Information System, within 30 days
18 from the date of Notice of Exemption submittal to the Director.
19 Before submitting the Notice of Exemption to the Director, the RPF
20 shall send a copy of the Notice of Exemption to Native Americans
21 defined in 14 CCR § 895.1.

22 (8) Only trees less than 18 inches stump diameter, measured at
23 eight inches above ground level, may be removed except as follows:

24 (A) Within 500 feet of a legally permitted structure that
25 complies with the California Building Code, or in an area prioritized

1 as a shaded fuel break in a community wildfire protection plan
2 approved by a public fire agency, if the goal of fuel reduction cannot
3 be achieved by removing trees less than 18 inches stump diameter,
4 trees less than 24 inches stump diameter may be removed if that
5 removal complies with this section.

6 (9) Post harvest stand conditions shall not violate the
7 following canopy closure requirements adopted by the Board under the
8 Fuel Hazard Reduction emergency regulation, 14 CCR § 1052.4, on June
9 9, 2004, and as those regulations may be amended: Minimum post
10 treatment canopy closure of dominant and codominant trees shall be 40
11 percent for east side pine forest types; 50 percent for coastal
12 redwood and Douglas-fir forest types in or adjacent to communities and
13 legal structures referenced in § 1052.4(c)(1) and (2); 60 percent for
14 coastal redwood and Douglas-fir forest types outside of communities
15 and legal structures referenced in § 1052.4(c)(1) and (2); and 50
16 percent for mixed conifer and all other forest types.

17 (10) Ladder and surface fuels shall be removed to achieve a
18 minimum clearance distance of eight feet, measured from the base of
19 the live crown of the postharvest dominant and codominant trees to the
20 top of the surface fuels.

21 (11) Surface fuels in the harvest area, including logging slash
22 and debris, low brush, and deadwood, that could promote the spread of
23 wildfire, shall be treated to achieve the goal of an average of four
24 foot maximum flame height under average severe fire weather
25 conditions. Treatments shall include chipping, removing, piling,

1 burning or other methods necessary to achieve the goal. Treatments,
2 except for burning operations, shall be done within 120 days from the
3 start of timber operations. Burning operations shall be completed by
4 April 1 of the year following surface fuel creation. Treatment of
5 surface fuels by burning shall be exempt from the one year time
6 limitations described under 14 CCR § 1038.1

7 (12) Fuel treatments conducted under 14 CCR § 1038(i)(8),(9),
8 (10) and (11) shall be achieved on at least 80 percent of the treated
9 area.

10 (13) Timber operations shall comply with the limits
11 established in 14 CCR § 1038, subsections (b) (1) through (10).

12 (14) At least one inspection conducted by the Director shall
13 be made after completion of operations.

14
15 Note: Authority cited: Sections 4551, 4553, 4584 Public Resources
16 Code. Reference: Sections 4527, 4584, Public Resources Code. EPIC v
17 California Department of Forestry and Fire Protection and Board of
18 Forestry (1996) 43 Cal. App.4th 1011.

19
20
21
22
23 AB 2420 emergency rule plead 1_8_05
24
25